

**REMARKS**

Entry of the foregoing amendments is respectfully requested.

**Summary of Amendments**

By the foregoing amendments claims 1 and 3-20 are cancelled and claims 21-40 are added. Accordingly, upon entry of this amendment, claims 21-40 will be pending, with claims 21, 31 and 35 being independent claims.

The new claims find support throughout the present specification (see, e.g., pages 5 and 6) and the cancelled claims.

Applicants point out that the cancellation of claims 1 and 3-20 is without prejudice or disclaimer and Applicants expressly reserve the right to prosecute these claims in one or more continuation and/or divisional applications.

**Summary of Office Action**

Initially, Applicants note with appreciation that the Examiner has indicated consideration of the Information Disclosure Statements filed October 12, 2004, January 10, 2005 and June 6, 2005 by returning signed and initialed copies of the Forms PTO-1449 submitted therein.

Applicants also note with appreciation that the Examiner has acknowledged the claim for foreign priority and the receipt of a certified copy of the priority document.

Claims 1 and 3-20 are rejected under 35 U.S.C. § 102(b) as allegedly anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly being obvious over Muller et al., U.S. Patent No

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6,248,338 (hereafter “MULLER”) and over International Application WO 98/01109 (hereafter “WO ‘109”) of which MULLER is the U.S. National Stage.

Claims 1 and 3-20 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1-17 of copending Application No. 10/511,122.

### **Response to Office Action**

Reconsideration and withdrawal of the rejections of record are respectfully requested in view of the foregoing amendments and the following remarks.

### ***Response to Rejection under 35 U.S.C. §§ 102(b)/103(a)***

Claims 1 and 3-20, i.e., all claims under consideration, are rejected under 35 U.S.C. § 102(b) as allegedly anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly being obvious over MULLER and over WO ‘109. In this regard, the rejection relies primarily on Examples 1-48 of MULLER and WO’109 and alleges that these Examples “disclose various compositions comprising hydroxypropyl guar hydroxypropyltrimonium chloride, cocamidopropyl betaine, pre-gelatinized, hydroxypropylated distarch phosphate, and adjunct ingredients.” The rejection further alleges that if the disclosure of MULLER and WO’109 “is insufficient to anticipate the [rejected] claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions for the same utility.”

Applicants respectfully traverse these rejections. With respect to anticipation it is submitted that the present claims are clearly novel over MULLER and WO'109. For example, present independent claim 21 recites a composition which is suitable for cleansing hair and comprises a combination of (a) one or more pregelatinized, cross-linked starch derivatives, (b) one or more cationic polymers which comprise at least one of a polymeric quaternized ammonium salt of hydroxyethylcellulose which has been modified with a trimethylammonium-substituted epoxide; a depolymerized and subsequently quaternized guar gum derivative; and a quaternized guar derivative, and (c) one or more nonionic, amphoteric or anionic surfactants which comprise at least one surfactant selected from fatty acid salts of sodium, alkyl sulfates, alkyl ether sulfates, alkane- and alkylbenzenesulfonates, sulfoacetates, sulfobetaines, sarcosinates, amidosulfobetaines, sulfosuccinates, sulfo-succinic half-esters, alkylether carboxylates, protein fatty acid condensates, alkyl betaines, amidobetaines, and fatty acid alkanolamides. Independent claims 31 and 35 recite, *inter alia*, selections from groups (a) to (c). MULLER and WO'109 do not disclose combinations of compounds from each of groups (a), (b) and (c) and for this reason alone, these documents fail to anticipate any of the present claims.

Regarding obviousness, it is noted that the present claims are drawn to a composition which is suitable for cleansing hair and a hair shampoo, respectively. The only specific disclosure in this regard which can be found in MULLER and WO '109 are the shampoos of Examples 4-6 thereof. These shampoos do not contain component (b) recited in the present claims.

The present Office Action points to column 7, lines 19-28 of MULLER where it is mentioned that for hair care compositions and hair conditioning compositions usually cationic compounds, preferably quaternary ammonium compounds such as cetyl trimethyl ammonium chloride or

diquaternary polydimethyl siloxanes are used. However, shampoos are (at least primarily) hair cleansing compositions, i.e., not hair care compositions or hair conditioning compositions, wherefore the fact that the shampoos of MULLER do not contain any cationic compound is consistent with the statement in col. 7, lines 19-28 thereof.

That the absence of a cationic compound in the shampoos of MULLER is not due to an oversight is evidenced by the fact that the only other compositions for hair which are disclosed in the Examples of MULLER and WO'109 are the hair rinses of Examples 1-3. Hair rinses can reasonably be categorized as hair care compositions or hair conditioning compositions. Accordingly, it is apparently consistent with the statements in column 7 of MULLER that the hair rinses described in this document do contain a cationic compound, i.e., Dehyquart A. According to the table at the top of columns 9 and 10 of MULLER, Dehyquart A is cetrimonium chloride = cetyl trimethyl ammonium chloride, one of the cationic compounds specifically mentioned in col. 7 of MULLER.

The hair rinses of MULLER also contain a small proportion (compared to the amount of cetrimonium chloride used) of a second cationic compound, i.e., Jaguar C-162 = hydroxypropyl guar hydroxypropyltrimonium chloride. This compound does not appear to be mentioned anywhere in the general disclosure of MULLER and WO'109, wherefore it is not known which (additional) purpose this compound is supposed to serve in the hair rinses described in these documents.

The facts set forth above make it apparent that MULLER and WO'109 fail to provide any motivation whatsoever for one of ordinary skill in the art to include a cationic compound, let alone a cationic polymer as recited in the present independent claims, into a hair cleansing composition or a shampoo, respectively. For this reason alone, MULLER and WO'109 are unable to render obvious the subject matter of any of the present claims.

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In view of the foregoing, it is submitted that a rejection of the present claims under 35 U.S.C. § 102(b) or § 103(a) over MULLER and WO '109 is unwarranted, wherefore withdrawal thereof is respectfully requested.

***Response to Obviousness-Type Double Patenting Rejection***

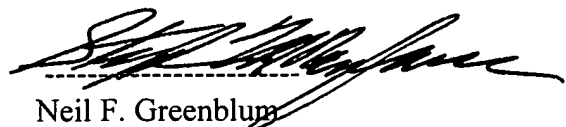
Claims 1 and 3-20 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1-17 of copending Application No. 10/511,122.

Applicants respectfully request that this rejection be held in abeyance until the Examiner has indicated allowable subject matter. Applicants will then decide whether it is necessary to file a Terminal Disclaimer in this or the copending application.

**CONCLUSION**

In view of the foregoing, it is believed that all of the claims in this application are in condition for allowance, which action is respectfully requested. If any issues yet remain which can be resolved by a telephone conference, the Examiner is respectfully invited to contact the undersigned at the telephone number below.

Respectfully submitted,  
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